

HOUSE JOURNAL
of the
NINETY-EIGHTH GENERAL ASSEMBLY
of the
STATE OF TENNESSEE
SECOND REGULAR SESSION
TUESDAY, JANUARY 11, 1994
FORTY-NINTH LEGISLATIVE DAY

The House of Representatives of the Ninety-eighth General Assembly of the State of Tennessee was called to order at twelve o'clock noon by Speaker Naifeh, in accordance with Article II, Section 8 of the Constitution of the State of Tennessee and pursuant to House Joint Resolution No. 254.

The proceedings were opened with prayer by Dr. Geoff D. Nealy, Lee Chapel A.M.E., Nashville, Tennessee.

Representative Love led the House in the Pledge of Allegiance to the Flag.

ROLL CALL

The roll call was taken with the following results:

Present 97

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowlkes, Garrett, Givens, Gunnels, Haley, Halteman, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones, R. (Shelby), Jones, U. (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas, Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner, (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby), Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

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EXCUSED

The Speaker announced that the following member(s) has/have been excused, pursuant to request(s) under Rule No. 20:

Representative McAfee; daughter's illness.

Representative Ramsey; death in family.

COMMUNICATIONS

January 10, 1994

Chief Clerk's Office
Tennessee House of Representatives
State Capitol
Nashville, Tennessee 37219

Re: Amendments to Proposed Tennessee Rules of Civil Procedure,
Rules of Evidence, and Rules of Appellate Procedure

Dear Sir:

Attached hereto please find a certified copy of an order signed by the Honorable Lyle Reid, Chief Justice of the Tennessee Supreme Court and the Associate Justices of the Tennessee Supreme Court, dated and filed December 20, 1993, in the office of Mr. Cecil Crowson, Jr., Clerk of the Supreme Court, in Nashville, Tennessee.

Pursuant to Tennessee Code Annotated 16-3-402, et seq., on behalf of the Chief Justice of the Supreme Court of Tennessee, I hereby file with your office said order.

If you have any questions, please advise.

Sincerely,
/s/ Charles E. Ferrell
Administrative Director
Tennessee Supreme Court

INTRODUCTION OF RESOLUTIONS

On motion, pursuant to Rule No. 17, the resolution(s) listed was/were introduced and placed on the Consent Calendar for Wednesday, January, 12, 1994:

House Joint Resolution No. 0357 -- Memorials, Academic Achievement -- Red Bank High School, 1992-93 Blue Ribbon School. by *McAfee.

House Joint Resolution No. 0360 -- Memorials, Public Service -- Barbara Ely, Sevierville "Citizen of the Year". by *Huskey, *Owenby.

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House Joint Resolution No. 0361 -- Memorials, Professional Achievement -- Tom Woods, Zeno Wall Tourism Award. by *Huskey, *Owenby.

House Joint Resolution No. 0362 -- Memorials, Recognition and Thanks -- "Lloyd L. Thornton Stadium," Maryville College. by *Anderson, *Owenby, *Huskey.

INTRODUCTION OF BILLS

On motion, the following bills were introduced and passed first consideration:

House Bill No. 1597 -- Election Laws -- Prohibits person defeated in primary election or party caucus from qualifying as independent for general election. Same as *SB 765/HB 605. Amends TCA, Title 2, Ch. 5, Pt. 1. by *Herron.

***House Bill No. 1620** -- Real Property -- Exempts Sevier County from performing second update of all real property values upon approval by 2/3 vote of county legislative body. Amends TCA 67-5-1601. by *Huskey.

House Bill No. 1627 -- Highway Signs -- Senator Claude Callicott Highway, segment of S.R. 96, Williamson County. by *Williams Mike.

***House Bill No. 1640** -- Highway Signs -- "Historic Rugby". by *Windle.

***House Bill No. 1644** -- Education -- Authorizes use of not more than five days of accumulated time from longer school days to meet 180 instructional day requirement. Amends TCA 49-6-3004. by *Moore, *Collier.

***House Bill No. 1660** -- Pensions and Retirement Benefits -- Revises death benefits from certain members of TCRS. Amends TCA, Title 8, Ch. 36, Pt. 1. by *Crain, *Buck, *Cross, *Head, *Ridgeway, *Bell, *Whitson, *Gunnels.

***House Bill No. 1686** -- AIDS -- Creates offense of criminal exposure of another to HIV. Amends TCA, Title 39, Ch. 13; Titles 63, 68. by *Peroulas Draper, *Ritchie.

***House Bill No. 1687** -- Sexual Offenses -- Abolishes defense to prosecution for offense of statutory rape that victim was 14 and had engaged promiscuously in sexual penetration. Amends TCA 39-13-506. by *Purcell.

House Bill No. 1688 -- District Attorneys -- Creates additional assistant district attorney general position for 22nd judicial district. Amends TCA 16-2-506. by *Napier, *Fowlkes.

***House Bill No. 1689** -- Hospitals and Health Care Facilities -- Revises temperature standards for freezers in nursing homes from 20

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to 15 degrees F. Amends TCA, Title 68, Ch. 11; Title 71, Ch. 5. by *Bragg.

***House Bill No. 1690 -- Mental Health and Mental Retardation, Dept. of --** Changes from 10 to 15 days time period during which mental patients may be examined by qualified professional in lieu of examining professional. Amends TCA, Title 33. by *Bragg.

***House Bill No. 1691 -- General Assembly --** Requires annual report of medicaid drug utilization review board to be submitted to respective chairs of senate and house health and human resources committees in addition to senate and house speakers. Amends TCA, Titles 56, 71. by *Bragg.

***House Bill No. 1692 -- Environmental Preservation --** Requires annual report on solid waste management to be filed with senate energy natural resources committee and house conservation and environment committee. Amends TCA, Titles 68--70. by *Bragg.

***House Bill No. 1693 -- Taxes, Privilege --** Limits vendor's compensation for tire dealers to \$50.00 per report. Amends TCA, Title 67, Ch. 4. by *Bragg.

***House Bill No. 1694 -- Solid Waste Disposal --** Increases maximum civil penalty for solid waste disposal law violations from \$5,000 to \$10,000 per day. Amends TCA, Title 68, Ch. 211. by *Bragg.

***House Bill No. 1695 -- Insurance, Health, Accident --** Deletes "other reasons approved by commissioner" as grounds to refuse coverage on converted policies. Amends TCA, Title 56, Ch. 7. by *Bragg.

***House Bill No. 1696 -- Insurance, Health, Accident --** Deletes 30 day requirement in which appeal must be filed regarding dispute with medical service corporation. Amends TCA, Title 56. by *Bragg.

***House Bill No. 1697 -- General Assembly --** Creates presumption that fiscal note amount is amount required for first year's funding pursuant to Tennessee constitution. Amends TCA, Title 3. by *Bragg.

***House Bill No. 1698 -- Taxes, Sales --** Extends from 30 to 45 days time period which commissioner may extend for sales tax reports to be filed. Amends TCA, Titles 56, 57, 67. by *Bragg.

***House Bill No. 1699 -- Lobbying, Lobbyists --** Requires lobbyist to report all expenditures made to legislative official; prohibits lobbyists from paying member for out of state travel. Amends TCA, Title 3, Ch. 6. by *Windle, *Buck, *Crain, *Jackson, *Halteman Harwell, *Chumney.

***House Bill No. 1700 -- Lobbying, Lobbyists --** Prohibits lobbyist from making gift to official in legislative branch. Amends TCA, Title 3, Ch. 6. by *Windle, *Buck, *Crain, *Jackson, *Halteman Harwell, *Chumney.

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***House Bill No. 1701 -- Tort Liability -- Enacts "Uniform Comparative Fault Act". Repeals TCA, Title 29, Ch. 11. by *Fisher.**

House Bill No. 1702 -- Greenbrier -- Revises manner in which public contracts in excess of \$1,000 are awarded; provides for exception in case of emergency in amount not to exceed \$2,500. Amends Chapter 436, Private Acts of 1937, as amended. by *Davidson.

***House Bill No. 1703 -- Salaries and Benefits -- Authorizes state employees to choose any MCO which participates in TennCare, if MCO agrees to provide health care on terms and conditions provided under basic medical plan and excess premiums over amount state pays under basic medical plan is not borne by state. Amends TCA, Title 8, Ch. 27, Pt. 1. by *Williams Mike.**

***House Bill No. 1704 -- Civil Procedure -- Prohibits recovery of damages for loss of a child by non-supporting parent; redefines parent-child relationship for purpose of intestate succession to exclude non-supporting parent. Amends TCA, Title 20, Ch. 5, Pt. 1; Title 31, Ch. 2, Pt. 1. by *Givens.**

***House Bill No. 1705 -- County Officers -- Authorizes Loudon County commission by 2/3 vote to provide for election of one constable from each of nine county legislative districts. Amends TCA 8-10-101. by *Gunnels.**

***House Bill No. 1706 -- Children -- Grants grandparents visitation rights if in best interest of child unless grandparents are declared by court as unfit. Amends TCA 36-6-301. by *Phillips.**

***House Bill No. 1707 -- Bail, Bail Bonds -- Permits convicted felon to serve as bail bondsman upon restoration of citizenship rights. Amends TCA, Title 40, Ch. 11. by *Phillips.**

House Bill No. 1708 -- Statutes -- Codifies Public Acts of 1993. by *Purcell.

***House Bill No. 1709 -- Pardons and Paroles -- Requires defendant's parole hearing to be held in county where defendant's most serious offense occurred, which is defined as offense committed by use of violence or threat of violence against another person. Amends TCA, Title 40, Chs. 28, 35. by *Jones R.**

SENATE BILLS TRANSMITTED

On motion, the Senate Bills listed below, transmitted to the House, were held on the Clerk's desk pending third consideration of the companion House Bill as noted:

***Senate Bill No. 0131 -- County Government -- Revises duties and functions of county public records commissions; mandates that such commissions be created. Amends TCA, Title 10, Ch. 7. (HB 0256).**

***Senate Bill No. 0237 -- Day Care -- Enacts "Day Care Incentive**

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Act of 1993". Amends TCA, Title 67. (HB 0988).

***Senate Bill No. 0570 -- Public Defenders --** Authorizes additional assistant public defenders for second, fifth, eleventh, fifteenth and eighteenth judicial districts; allows one additional criminal investigator for fifth, eleventh and fifteenth districts; allows filling full time position with two part time employees. Amends TCA, Title 8, Ch. 14. (HB 1478).

Senate Bill No. 0610 -- State Government -- Requires TACIR to make annual report on state shared taxes dedicated to fulfill state's obligation to share in cost of expenditures mandated to local governments. Amends TCA, Titles 4, 5. (*HB 0317).

Senate Bill No. 1283 -- Appropriations -- Authorizes growth in state appropriations which exceed rate of growth of economy for 1993-1994 fiscal year. (*HB 0904).

Senate Bill No. 1399 -- Obscenity and Pornography -- Creates new offense of public indecency. Amends TCA 39-13-511. (*HB 1152).

HOUSE BILLS ON SECOND CONSIDERATION

On motion, bill(s) listed below passed second consideration and/were referred by the Speaker to Committee or Held on the Clerk's desk as noted:

***House Bill No. 1683 -- Trusts --** Agriculture Committee.

JOINT STUDY COMMITTEE REPORT

The Clerk announced that The Business Tax Study Committee, pursuant to House Joint Resolution No. 106 of 1993, has completed its work and submitted its report, which is on file in the Clerk's office.

REGULAR CALENDAR

***Senate Bill No. 0987 -- Taxes, Ad Valorem --** Exempts certain real and personal property from ad valorem taxation; establishes procedure for persons claiming exemption. Amends TCA, Title 67, Ch. 5. Repeals TCA 67-5-218.

Further consideration of Senate Bill No. 987, previously considered on May 12 and 13, 1993, at which time on May 12, 1993 it was substituted for House Bill No. 1466 and reset for May 13, 1993. On May 13, a motion was made to adopt Amendment No. 1 and the bill was reset to the first calendar for 1994.

Rep. Coffey moved that Senate Bill No. 987 be reset two weeks from tomorrow to the Calendar for Wednesday, January 26, 1994, which motion prevailed.

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House Bill No. 1665 -- Morristown -- Revises civil service system. Amends Chapter 370, Private Acts of 1955, as amended.

Further consideration of House Bill No. 1665, previously considered on May 12 and 13, 1994, at which time on May 12, it was objected to on the Consent Calendar and reset for May 13, 1993. On May 13, it was re-referred to the Calendar and Rules Committee and reset to the floor calendar for May 19, 1993 at which time it was reset to the first available space on the Calendar for 1994.

On motion of Rep. Johnson, House Bill No. 1665 was withdrawn from the House.

UNFINISHED BUSINESS

RULES SUSPENDED

Rep. Purcell moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 358 out of order, which motion prevailed.

***House Joint Resolution No. 0358 --** General Assembly, Joint Conventions -- Schedules joint convention for Thursday, February 3, 1994, at 10:00 a.m. for purpose of hearing budget address. by *Purcell, *Bittle.

On motion of Rep. Purcell, the resolution was adopted.

A motion to reconsider was tabled.

RULES SUSPENDED

Rep. Purcell moved that the rules be suspended for the purpose of introducing House Joint Resolution No. 359 out of order, which motion prevailed.

***House Joint Resolution No. 0359 --** General Assembly, Joint Conventions -- Schedules joint convention for Wednesday, January 12, 1994, at 1:30 p.m. for purpose of hearing state of state address. by *Purcell, *Bittle.

On motion of Rep. Purcell, the resolution was adopted.

A motion to reconsider was tabled.

ANNOUNCEMENTS

The Speaker announced that, pursuant to provisions of Public Chapter 307 of the Public Acts of 1993 and also TCA 3-12-101(a), the provisions of the policy for prevention of sexual harassment, which is being implemented in the General Assembly, will be distributed to the appropriate members and staff as soon as possible.

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REPORTS FILED

The State of Tennessee Treasurer's Report for the fiscal year ended June 30, 1993, was submitted and filed with the Chief Clerk's Office.

MESSAGE FROM THE SENATE

January 11, 1994

MR. SPEAKER: I am directed to transmit to the House, Senate Joint Resolution(s) No(s). 259; adopted for concurrence.

CLYDE W. McCULLOUGH, JR., Chief Clerk.

RULES SUSPENDED

Rep. Purcell moved that the rules be suspended for the immediate consideration of Senate Joint Resolution No. 259 out of order, which motion prevailed.

Senate Joint Resolution No. 0259 -- General Assembly, Joint Conventions -- University of Tennessee, January 11, 1993, 12:45 p.m., 200th birthday. by *Crutchfield, *Atchley, *Albright, *Burks, *Cohen, *Cooper, *Crowe, *Davis, *Elsea, *Ford, *Gilbert, *Greer, *Hamilton, *Harper, *Haynes, *Henry, *Holcomb, *Jordan, *Koella, *Kyle, *Leatherwood, *McKnight, *McNally, *O'Brien, *Patten, *Person, *Rice, *Rochelle, *Springer, *Wallace, *Womack, *Wright, *Wilder.

On motion of Rep. Purcell, the resolution was concurred in.

A motion to reconsider was tabled.

SPONSORS ADDED

Under Rule No. 43, the following members were permitted to add their names as sponsors as indicated below, the prime sponsor of each having agreed to such addition:

House Bill No. 957: Rep(s). Peroulas Draper as prime sponsor(s).

SPONSORS REMOVED

On motion, Rep(s). Davidson was/were removed as sponsor(s) of House Bill No. 1059.

On motion, Rep(s). Robinson was/were removed as sponsor(s) of House Bill No. 1699.

On motion, Rep(s). Robinson was/were removed as sponsor(s) of House Bill No. 1700.

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**ENGROSSED BILLS
January 11, 1994**

The following bill(s) have been examined, engrossed, and are ready for transmission to the Senate: House Joint Resolution(s) No(s). 358 and 359.

BETTY KAY FRANCIS, Chief Engrossing Clerk.

REPORTS FROM STANDING COMMITTEE

The committees that met on Tuesday, January 11, 1994, reported the following:

STATE AND LOCAL GOVERNMENT

The State and Local Government Committee recommended for passage: House Bill(s) No(s). 775; also, House Bill(s) No(s). 776 with amendment(s). Under the rules, each was transmitted to the Calendar and Rules Committee.

ROLL CALL

The roll call was taken with the following results:

Present 97

Representatives present were: Allen, Anderson, Armstrong, Arriola, Bell, Bittle, Boyer, Bragg, Brooks, Brown, Buck, Byrd, Callicott, Chiles, Chumney, Clark, Coffey, Cole (Carter), Cole (Dyer), Collier, Crain, Cross, Davidson, Davis, DeBerry, Dixon, Duer, Ferguson, Fisher, Fowkes, Garrett, Givens, Gunnels, Haley, Halteman, Hargrove, Hassell, Haun, Head, Herron, Hillis, Huskey, Jackson, Johnson, Jones, R. (Shelby), Jones, U. (Shelby), Joyce, Kent, Kernell, Kisber, Knight, Lewis, Liles, Love, McDaniel, McKee, Meyer, Miller, Mires, Moore, Napier, Odom, Owenby, Peroulas Draper, Phelan, Phillips, Pinion, Pruitt, Purcell, Rhinehart, Ridgeway, Rigsby, Rinks, Ritchie, Robinson, Severance, Shirley, Stamps, Stockburger, Stulce, Thompson, Tindell, Turner (Hamilton), Turner, (Shelby), Venable, Walley, West, Westmoreland, Whitson, Williams (Shelby) Williams (Union), Williams (Williamson), Windle, Winningham, Wix, Wood, Mr. Speaker Naifeh -- 97.

RECESS MOTION

Representative Purcell moved that, pursuant to Senate Joint Resolution No. 259, the House recess to meet with the Senate in Joint Convention for the purpose of commemorating the 200th Anniversary of the University of Tennessee, and further moved that at the conclusion of the Joint Convention, the House recess until 1:00 p.m., Wednesday January 12, 1994, which motions prevailed.